

RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2302

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7-24

S/N 08/390,774PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael W. Morgan Examiner: D. Pan
Serial # : 08/390,774 Group Art Unit: 2302
Filed : February 17, 1995 Docket: 30293.1US02
Title : METHOD AND APPARATUS FOR RECOGNIZING AND
PERFORMING HANDWRITTEN CALCULATIONS

PETITION UNDER 37 C.F.R. § 1.181

BOX AF
Assistant Commissioner
for Patents
Washington, D.C. 20231

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GROUP 2300

Dear Sir:

This Petition is being submitted in accordance with M.P.E.P. § 706.07(c) to invoke the supervisory authority of the Commissioner under 37 C.F.R. § 1.181 involving an ex parte action in the above-identified patent application that is not subject to appeal and not otherwise provided for.

The Applicant requests a review of the final rejection in the above-identified patent application. In a Request for Reconsideration under 37 C.F.R. § 1.116 mailed June 11, 1996, the Applicant requested withdrawal of the final rejection made in the Office Action mailed March 14, 1996, on the grounds that the final rejection was premature.

The Applicant respectfully submits that the request for withdrawal was not addressed by the Examiner in the Advisory

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Action mailed June 20, 1996. However, the Examiner stated, in a telephone interview on July 11, 1996, that the request for withdrawal had, in fact, been addressed in the Advisory Action, and refused to withdraw the final rejection. The Applicant disputes this assertion by the Examiner, and asserts that nowhere in the Advisory Action is a refusal recited nor are the grounds supporting such a refusal set forth.

The Applicant, therefore, requests a definite ruling on his request for withdrawal with reasons provided for the grounds any refusal thereof. Further, the Applicant submits this Petition in response to the verbal refusal made by the Examiner in the telephone interview.

The Applicant respectfully submits that the rejections in the Office Action mailed March 14, 1996, were based on prior art not previously of record (i.e., the Guyon reference) and were directed to claims that were amended (in the responses filed on December 13, 1995 and March 1, 1996) merely to include limitations that should reasonably have been expected to be claimed. The independent claims were amended to clarify the original language therein and to incorporate limitations substantially present in the dependent claims as originally filed in the present application. More specifically, the amendments in the December 13, 1995 response merely clarified the language already in the claims, and the amendments in the March 1, 1996 response merely incorporated language from dependent claims 28 and 37 into the independent claims.

Therefore, the Office Action introduced new grounds for rejection not necessitated by amendment by the Applicant. Consequently, the final rejection was premature, and the Applicant requests withdrawal of the final rejection.

This Petition is being submitted by facsimile, and thus Applicant requests that any required Petition fees be charged to his Attorneys' Deposit Account No. 13-2724. If necessary, please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers and please charge any additional fees or credit any overpayment to Deposit Account No. 13-2724.

Respectfully submitted,

Michael W. Morgan

By his attorneys,

MERCHANT, GOULD, SMITH, EDELL,
WELTER & SCHMIDT

Suite 400

11150 Santa Monica Boulevard

Los Angeles, CA 90025-3395

(310) 445-1140

Dated: July 11, 1996

By: George H. Gates

George H. Gates
Reg. No. 33,500

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MERCHANT & GOULD

Westwood Gateway II, Suite 400
11150 Santa Monica Blvd.
Los Angeles, CA 90025-3395

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TO: Assistant Commissioner
for Patents
Attn: Examiner D. Pan
Patent Examining Corps
Facsimile Center
Washington, D.C. 20231

FROM: George H. Gates **GROUP 2300**

OUR REF: 30293.1US02
TELEPHONE: (310) 445-1140

Total pages, including cover letter: 4

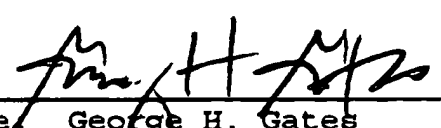
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Title of Document Transmitted: Petition Under 37 C.F.R. §
1.181

Applicant: Michael W. Morgan
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Our Ref. No.: 30293.1US02

Please charge any additional fees or credit overpayment to
Deposit Account No. 13-2724.

By: 
Name: George H. Gates
Reg. No.: 33,500

I hereby certify that this paper is being transmitted by
facsimile to the U.S. Patent and Trademark Office on the date
shown below.

Denise Ann Beaubier


Signature

July 11, 1996
Date